

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TONI ZOONER,)
)
)
Plaintiff,) Civil Action No. 22-479
)
)
v.) Judge Cathy Bissoon
)
)
WALMART, INC.,)
)
)
Defendant.)

ORDER

Plaintiff's Motion to Remand (Doc. 5) will be denied, with instructions.

In this diversity action, Plaintiff has indicated a willingness to "cap . . . damages in a sum no more than \$75,000." *Id.* at ¶ 4. This Court has, on more than one occasion, remanded cases where a plaintiff's stipulation clarifies (rather than amends) the pleadings to confirm that he or she does not seek, and will not accept, judgment in excess of the statutory minimum. *See, e.g.*, Doc. 13 in Civil Action No. 2:20-876; Doc. 5 in Civil Action No. 2:17-1210; Doc. 16 in Civil Action No. 2:13-104; *see also, e.g.*, Brewer v. Geico, 2014 WL 241756, *5 n.3 (W.D. Pa. Jan. 22, 2014) (recognizing permissibility of the same); Rosado v. Encompass Ins. Co., 2010 WL 2431829, *2 (E.D. Pa. Jun. 10, 2010) (same).

Here, the Complaint is ambiguous regarding the dollar amount of damages requested; and this case is of-the-type where a clarifying stipulation is permissible. While oftentimes the Court has seen such stipulations signed by both sides, there is nothing in the law, from the undersigned's perspective, requiring Defendant's assent.

Accordingly, Plaintiff is afforded until **April 22, 2022**, to file a stipulation (or affidavit) indicating that she does not seek, and will not accept, recovery in excess of \$75,000.00. If a compliant stipulation/affidavit is timely filed, the case will be remanded forthwith.

IT IS SO ORDERED.

April 13, 2022

s/Cathy Bissoon

Cathy Bissoon

United States District Judge

cc (via ECF email notification):

All Counsel of Record